



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7000 0600 0027 1155 2666

May 12, 2009

Mr. Timothy Kerbrat
Battalion Chief
City of Los Angeles Fire Department
200 North Main Street, Suite 1700
Los Angeles, California 90012

Dear Chief Kerbrat:

The California Environmental Protection Agency (Cal/EPA), California Emergency Management Agency, Office of the State Fire Marshal, and the State Water Resources Control Board] conducted a program evaluation of the City of Los Angeles Fire Department Certified Unified Program Agency (CUPA) on April 8 and 9, 2009. The evaluation was comprised of an in-office program review and field oversight inspections by state evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that the City of Los Angeles Fire Department's program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Progress Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Kareem Taylor every 90 days after the evaluation date. The first deficiency progress report is due on July 8, 2009.

Cal/EPA also noted during this evaluation that the City of Los Angeles Fire Department has worked to bring about a number of local program innovations. For example, the Site Mitigation Workgroup was established in coordination with another agency to foster communication and to improve technical knowledge amongst southern California agencies regarding leaking underground storage tanks sites. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program Web site to help foster a sharing of such ideas statewide.

Chief Timothy Kerbrat
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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc sent via email:

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Enclosure



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: LOS ANGELES CITY FIRE DEPARTMENT

Evaluation Dates: April 8 and 9, 2009

EVALUATION TEAM

Cal/EPA and OSFM: Jennifer Lorenzo

SWRCB: Sean Farrow

Cal EMA (formerly OES): Jeffrey Tkach

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. Questions or comments can be directed to Jennifer Lorenzo at (916) 324-0232.

	<u>Deficiency</u>	<u>Corrective Action</u>
1	<p>The CUPA did not conduct a self-audit of its Unified Program for fiscal year (FY) 2006/2007. The CUPA, however, conducted a self-audit for FY 07/08, which did not assess the performance of its participating agency (PA). The Los Angeles County Fire Department PA implements and enforces the hazardous waste generator and tiered permit programs.</p> <p>The CUPA is on its way toward correcting this deficiency. The CUPA has initiated the performance evaluation of its PA for the current fiscal year.</p> <p>CCR, Title 27, Section 15280 (a) and (b)[Cal/EPA]</p>	<p>The CUPA will conduct an annual self-audit for each fiscal year, including an evaluation of its PA. By October 6, 2009, the CUPA will submit a complete FY 08/09 self-audit report.</p>
2	<p>The CUPA has not established the following administrative procedure:</p> <ol style="list-style-type: none"> 1. Procedures for the withdrawal or removal of a PA. <p>CCR, Title 27, Section 15180 (e) [Cal/EPA]</p>	<p>By July 8, 2009, the CUPA will develop and submit a copy of the administrative procedures for the withdrawal or removal of a PA.</p>
3	<p>The CUPA is not fully tracking and accurately reporting information on the Annual Inspection and Enforcement Summary Reports. For example, the number of regulated businesses inspected is lower than the number of routine inspections for the hazardous materials business plan in FY 06/07 and 07/08. The Return to Compliance (RTC) information on the Annual Inspection Summary Report 3 did not correspond with the number of violations information and enforcement actions taken for the</p>	<p>The CUPA will ensure that the information reported on the Annual Inspection and Enforcement Summary Reports (due annually by September 30th of each year) will be complete and as accurate as possible. Explain any discrepancies of the data as footnotes of the summary reports or as addendum to the annual self-audit.</p>

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	<p>business plan, California Accidental Release Prevention (CalARP), and underground storage tank (UST) programs within the last three fiscal years. Also, the number of violations reported was substantially less than the enforcement actions taken, or no violations and no enforcements were reported on the Annual Enforcement Summary Report 4, when RTC information was reported on the Annual Inspection Summary Report 3.</p> <p>Prior to July 2008, the CUPA was tracking inspections on its database management software (Decade Envision) and manually verifying the information from each inspector. Beginning July 2008, the CUPA began fully utilizing the tracking capabilities of Envision. The CUPA continues to update and make improvements to its database for easy retrieval of information and for consistency in tracking inspections. Enforcement actions are currently being tracked manually, but the CUPA's goal is to also integrate the enforcement data into their database management software.</p> <p>CCR, Title 27, Section 15290 (a)(2) and (3) [Cal/EPA]</p>	
4	<p>The CUPA is not ensuring that hazardous materials business plan (HMBP) facilities submit either an annual certification of no-change to their inventory or an updated inventory.</p> <p>HSC, Chapter 6.95, Section 25505 (d) and 25502 [Cal EMA]</p>	By July 8, 2009, the CUPA will develop and submit to Cal/EPA an action plan which will outline how the CUPA will correct this deficiency.
5	<p>The CUPA is not ensuring that regulated facilities review, update and submit newly updated business plans on the state mandated triennial period.</p> <p>HSC, Chapter 6.95, Section 25505 (c) and 25502 [Cal EMA]</p>	By July 8, 2009 the CUPA will develop and submit to Cal/EPA an action plan which will outline how the CUPA expects to reach the state mandated triennial HMBP review period.
6	<p>The CUPA is not ensuring that the HMBP's are complete. Six of the 10 files reviewed did not contain an Emergency Response Plan; seven of the 10 did not contain a site map, and four of the 10 did not contain an Employee Training Plan.</p> <p>HSC, Chapter 6.95, Sections 25504 (b), 25504 (c), and 25502; and CCR, Title 19, Section 2729 (a)(3) [Cal EMA]</p>	By July 8, 2009, the CUPA will develop and submit to Cal/EPA an action plan which will outline how the CUPA believes it can correct this deficiency.
7	<p>The CUPA has not maintained the state mandated inspection frequencies for the HMBP program. Of the 10 facility files reviewed, six did not contain inspection reports dated within the last three years.</p> <p>HSC, Chapter 6.95, Section 25508(b), 25502 [Cal EMA]</p>	By July 8, 2009, the CUPA will develop and submit to Cal/EPA an action plan which will outline how the CUPA believes it can achieve and maintain the state mandated inspection frequency.
8	<p>The UST operating permit does not contain the monitoring options used for the tank and piping systems</p>	This deficiency has been corrected.

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	<p>or have a statement that the monitoring, response, and plot plans are to be maintained on site with the permit.</p> <p>This deficiency was identified during the CUPA's previous evaluation in April 2006.</p> <p>CCR, Title 23, Section 2712 (c) [SWRCB]</p>	
9	<p>The CUPA has not met the mandated inspection frequency for UST facility compliance inspections during two previous fiscal years. However, the CUPA showed substantial improvement within the last FY.</p> <ul style="list-style-type: none"> • In FY 05/06, the CUPA inspected 68% of their regulated UST facilities; • In FY 06/07, the CUPA inspected 53% of their regulated UST facilities; • In FY 07/08, the CUPA completed UST compliance inspections for 100% of the regulated UST facilities. <p>HSC, Chapter 6.7, Section 25288 (a) [SWRCB]</p>	<p>By June 30, 2009, and each subsequent year, the CUPA will inspect every UST within its jurisdiction at least once every year.</p> <p>No additional follow-up with Cal/EPA is necessary.</p>
10	<p>The CUPA's UST files are incomplete. File review indicates that the CUPA's files are missing inspection reports, plot plans, response plans, and secondary containment inspections to verify compliance.</p> <p>CCR, Title 23, Sections 2632 (d)(2), 2637 (e), 2638 (d), and 2711 (a)(8); and Title 27, Section 15185 (a)(c)(1) [SWRCB]</p>	<p>Beginning April 9, 2009, the CUPA will collect and retain compliance documents within their prescribed timeframes.</p>
11	<p>The CUPA is not collecting all of the new UST data elements for permit renewals that came into effect in December 2007.</p> <p>HSC, Chapter 6.7, Section 25286 (a); and CCR, Title 23, Section 2711 (a); and Title 27, Section 15185 (a) [SWRCB]</p>	<p>Beginning April 9, 2009, the CUPA will collect the new UST data elements.</p> <p>One way to gather the information is to mail out the new Unified Program Consolidated Forms (UPCF's) UST-A and B during the next round of operating permit renewals.</p> <p>Prior to conducting the annual UST inspection, the CUPA shall review all paperwork submitted for a Permit to Operate and ensure that the tank and piping systems, and the monitoring methods used are sufficiently described and are appropriate for the system. If the forms are incorrect, the CUPA shall either correct the forms, or have the facility owner resubmit new forms that are correct.</p>

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12	<p>The CUPA is not approving the submitted monitoring plan form (UPCF UST-D). File review indicates that the CUPA is not signing the approval/disapproval box on page four, indicating that the form has been reviewed for completeness and accuracy.</p> <p>CCR, Title 23, Sections 2632 (d)(1) and 2641 (g) [SWRCB]</p>	<p>By July 8, 2009, the CUPA shall report to Cal/EPA and the SWRCB the number of approved monitoring forms.</p>
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CUPA Representative

Eloy Luna
(Print Name)

Original signed
(Signature)

Evaluation Team Leader

Jennifer L. Lorenzo
(Print Name)

Original signed
(Signature)

PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations provided in this section address activities that are not specifically required of the CUPA by statute or regulation. The recommendations, if any, are provided for continuous improvement and it is the CUPA's decision whether or not to follow the recommendations.

1. **Observation:** The CUPA's Self-Audit reports contain the minimum required elements; however, the CUPA does not provide details on the effectiveness of its permitting activities.

Recommendation: Cal/EPA recommends that the CUPA include a narrative summary on the effectiveness of its permitting activities in its Self-Audit reports. The CUPA may discuss its consolidated permitting process and how effective the process has been (or has not been) throughout the fiscal year. Also, if the permitting activities were (or were not) effective, then the CUPA should note the reasons why the permitting activities were (or were not) effective.

2. **Observation:** The CUPA's I&E Program Plan contains outdated information on the following: Aboveground Petroleum Storage Act (APSA)/Spill Prevention Control and Countermeasure (SPCC) Plan requirements, and references the Uniform Fire Code and OES. The I&E Program Plan is also missing additional documentation in its appendix, such as the UST inspection checklist as referenced within the plan.

Recommendation: Cal/EPA recommends that the CUPA update the I&E Program Plan to reflect the current APSA requirements, the California Fire Code and Cal EMA (instead of Uniform Fire Code and OES, respectively), and contain the additional documentation cited within the plan. Cal/EPA also recommends that the CUPA's inspection staff review the I&E Program Plan annually and/or whenever substantial changes are made as part of the staff's ongoing training and follow the plan.

3. **Observation:** The CUPA currently maintains a training log of its inspectors that date back to FY 07/08. Training logs prior to July 2007, which were maintained electronically, are lost; no backup was created.

Recommendation: Cal/EPA recommends that the CUPA continue to record the ongoing training that its staff attend and maintain a backup of the data if entered in a computer. Indicate the name of the classes or trainings attended at conferences or seminars that provide multiple classes or training events.

4. **Observation:** The CUPA's inspection reports do not distinguish among Class I, Class II, and minor violations.

Recommendation: Cal/EPA recommends that the CUPA modify its inspection reports so that each violation can be classified separately to distinguish between enforcement modes for Class I, Class II and minor violations. Classification of the violations will also assist in reporting information on the Annual Enforcement Summary Reports.

Additionally, Cal/EPA recommends that the CUPA provide violation classification training to its inspection staff. A great reference is the June 2006 "Violation Classification Guidance for Unified Program Agencies," which is available on the Cal/EPA Unified Program Web site at <http://www.calepa.ca.gov/CUPA/Documents/Inspection/ViolationGuide.pdf>.

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- 5. Observation:** The CUPA has filed the grant application and grant agreement for the APSA program. However, the CUPA has not yet received the grant from Cal/EPA pending the City Council resolution.

Recommendation: Cal/EPA recommends that the CUPA work with its City Council to expedite the resolution, so that the CUPA may finally receive its APSA grant money, which is approximately \$64,930.

- 6. Observation:** The CUPA uses a “Business Information” sheet, which contains the business contact information and address as well as an “Inspection Responsibility” sheet which is a listing of the facility’s inventory during inspections. Cal EMA observed that these forms were being used as confirmation of inspection as well as updates to the business plan. The facility files reviewed contained these forms; however, there were no signatures or dates, either from the facility owner/operator or the inspector on the forms. Also, any updates to these forms do not capture all the information required in the UPCF’s. There were a few facility files which contained the certification of no-change for the inventory, but most files did not.

Recommendation: The CUPA should start using the state’s UPCF’s for consistency among all the facilities within the CUPA’s jurisdiction as well as ensuring that all information required by the state is being captured. The CUPA may incorporate boiler plate forms regarding the Emergency Contingency Plans, Employee Training, and Facility Site Map, which would assist in the CUPA maintaining complete files of facilities. The CUPA should send these UPCF packets to facilities which are approaching their three-year cycle to ensure that facility files are up-to-date prior to inspections. The CUPA should also send the no-change certifications along with the annual single fee invoices to obtain compliance with annual chemical inventory reporting requirements. Cal EMA also recommends that the CUPA use their inspection checklist, which should be signed, dated, and a copy left with the facility, as stated in the CUPA’s I&E Program Plan.

- 7. Observation:** The CUPA’s UST inspection form does not identify Significant Operational Compliance (SOC) items or provide for a summary of these items for tracking purposes during the annual compliance inspection.

Recommendation: The SWRCB recommends that the CUPA provide a means for determining SOC compliance during the inspection.

A “draft” inspection form has been given to the CUPA. This form is not required to be used by the CUPA. It is an example/tool to help the CUPA identify the SOC items that need to be reported to the SWRCB.

- 8. Observation:** The CUPA inspectors have access to a camera to document violations at regulated facilities.

Recommendation: Photographs are useful to document violations and the conditions at facilities. Photographs could help strengthen your case should enforcement become necessary. Always remember to date stamp photographs.

- 9. Observation:** The CUPA inspector performed a good UST inspection on April 7, 2009. The inspector fully reviewed the on-site paperwork, ensured all sensors were of the correct type and placed correctly, checked for fire code violations, and developed what seemed to be a good working relationship with the

Certified Unified Program Agency (CUPA)
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service technician and facility management. However, the inspector forgot to review the alarm history which may have indicated if the system had any problems during the last calendar year.

Recommendation: In the future, remember to obtain a record of the alarm history prior to testing any of the sensors in the system.

10. Observation: The CUPA has undergone several staff changes, including its management, since the last evaluation in April 2006. However, the CUPA is now fully staffed, with the exception to its CUPA manager. Mr. Eloy Luna is currently the interim CUPA manager and also implements the site mitigation/remediation program for the City of Los Angeles Fire Department.

11. Observation: The CUPA maintains excellent coordination with other Unified Program Agencies (UPA's) within the county for a consistent Unified Program. The CUPA meets with other UPA's within Los Angeles County on a quarterly basis. Additionally, the CUPA also participates in the following Unified Program-related meetings or events: annual CUPA conference, California Hazardous Materials Investigators Association, CUPA forum regional meetings, Los Angeles City Strike Force, Los Angeles County Strike Force, Southern California Site Mitigation Workgroup, UST Technical Advisory Group (TAG), and Hazardous Waste TAG.

Recommendation: Cal/EPA encourages the City of Los Angeles Fire Department CUPA to continue to meet with other UPA's regularly and attend other Unified Program-related events and meetings for consistency within the Unified Program.

12. Observation: The CUPA's Web site contains several resources for the public and regulated community, including an overview of the CUPA, UPCF's, fee schedule, and links to pertinent sites. A summary of the program elements (business plan, UST, and CalARP) are also provided. The CUPA's summary page of the hazardous waste generator and tiered permit programs provides a link to the Los Angeles County Fire Department PA. Also, the UPCF's, which were customized for the Unified Program Agencies within Los Angeles County, are outdated.

Recommendation: Cal/EPA recommends that the CUPA update and use the forms. Also, the CUPA could add more information to the APSA program for consistency with the other program elements that are described in greater detail and provide more information.

13. Observation: The Management Information Systems Unit customized the Envision program to meet the City of Los Angeles Fire Department's specific needs and migrated all UST historical files from File Maker Pro to Envision.

EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. Since the last evaluation in April 2006, the City of Los Angeles Fire Department CUPA has made significant progress in its enforcement program. During FY 07/08, the CUPA initiated 35 formal enforcements against UST facilities, using the red tag procedure or referrals to the City Prosecutor. During the current fiscal year, the CUPA has referred at least seven cases to the City Prosecutor for prosecution. The CUPA aims to begin using the administrative enforcement order (AEO) process this fiscal year for one or more significant UST violators.

In addition, the Los Angeles County Fire Department PA has continued to initiate formal enforcements within the last three fiscal years for the hazardous waste generator program.

2. In addition to implementing the HMBP, CalARP, and UST programs, the City of Los Angeles Fire Department CUPA also implements the fire code and site mitigation / remediation program for soil cleanup of leaking underground storage tank (LUST) sites. Mr. Eloy Luna, the interim CUPA manager of Los Angeles City Fire Department, in coordination with Ms. Brenda ten Bruggencate of Santa Fe Springs Fire Department, established the Site Mitigation Work group to discuss issues relating to site assessment, mitigation, and remediation of LUST sites. Eloy and Brenda received the 2007 Unified Program Agency Environmental & Safety Leadership Award for their exemplary leadership and vision in creating the Site Mitigation Workgroup for the Southern California Region. Eloy and Brenda developed the concept of the workgroup as a cross-training program to foster communication and to improve technical knowledge amongst southern California agencies. The Site Mitigation Workgroup brings regulators together on a quarterly basis to learn about technical topics regarding LUST sites. The workgroup has gathered support involvement from the U.S. Environmental Protection Agency, SWRCB, the Los Angeles Regional Water Quality Control Board, and numerous city and county programs.
3. The CUPA has substantially improved its single fee collection. The CUPA also established a system to go after delinquent business owners increasing the CUPA's revenue percentage. In FY 07/08, the Los Angeles Fire Department CUPA's Data Management Team received the City of Los Angeles Fire Chief's Group Award of Excellence and special commendation for collecting over \$2 million of outstanding invoices. The CUPA's single fee collection rate increased significantly due to extensive improvements made by the CUPA's data management staff in areas such as the following: data cleanup, improved relations with the county, identification of past due invoices, and improved relations with business owners, City Finance Officer and use of outside collection agencies.